



2014/2015 DEL NORTE COUNTY GRAND JURY

FINAL REPORT



May 22, 2015

The Honorable William Follett
Judge of the Superior Court of Del Norte County
450 H Street
Crescent City, CA 95531

RE: Del Norte County 2014-2015 Grand Jury Final Report

Your Honor,

On behalf of the 2014-2015 Del Norte County Grand Jury, we submit our final report to you, the citizens of Del Norte County, the Del Norte County Board of Supervisors, and the City Council of Crescent City.

As you are aware the Grand Jury functions as a “watchdog” wherein the Grand Jury investigates and issues reports about local government entities. The purpose of such investigations is to improve efficiency and effectiveness of our local government and promote government accountability. In order to fulfill its mission, the independence of the Grand Jury is of utmost importance as is the confidentiality of its proceedings and investigations until a final report is issued.

“In our system of government a grand jury is the only agency free from possible political or official bias that has an opportunity to see... the operation of government...on any broad basis”
(Monroe v. Garrett 1971 17Cal.App.3rd 280)

When I assumed the Foreperson position for this sitting Grand Jury, I anticipated a controversial year, and this Grand Jury acknowledges that this final report may have repercussions to the Del Norte community. The Grand Jury chose to investigate the Del Norte County Solid Waste Authority based on the numerous articles in the Del Norte Triplicate and the letters the paper received and published in its opinion section. To that end, the Jury took a journalistic approach to its investigation and endeavored to answer the questions: Who, What, Where, When and Why? This final report is the culmination of an

exhausting, unerring and diligent investigation which identifies the issues, and the impact of proposed changes to the DNSWMA, should they be undertaken to the citizens of Del Norte County.

The Grand Jury focused on other issues pertinent to the safety and security of Del Norte County residents in exploring the emergency response system when it was learned that the 911 call system access lines

were to be reduced in number. The jury also followed up on the Klamath Fire issues raised by the 2013-2014 Grand Jury, and completed the mandated inspections of the county detention facilities. In all, the Grand Jury members were dedicated in their tasks, diligent, and objective in their findings.

I am proud and honored to have served with this group of citizens, some of whom had little or no prior knowledge of how a Grand Jury functions, all of whom came together to produce this document. Acknowledgement must also be made of the California Grand Jurors' Association; their initial training sessions, and availability for consultation over the past year has been invaluable in producing this document.

Respectfully submitted,



Tod A. Roy, Ph.D., Foreperson
2014-2015 Del Norte County Grand Jury

2014/2015 Del Norte County Grand Jury SPECIAL REPORT

SUMMARY

The 2014-2015 Del Norte County Grand Jury conducted an extensive inquiry and investigation into the operations of the Del Norte County Solid Waste Management Authority (SWA) during the course of executing its statutory responsibilities. By law, these investigations are confidential and will remain so until the Grand Jury issues a Final Report, or the Superior Court releases those concerned from the bounds of confidentiality.

While performing its responsibilities the Grand Jury was made aware that a certain witness appearing before it had violated the secrecy admonition applicable to Grand Jury proceedings. The witness's violation of the admonition of confidentiality appeared to the Grand Jury to be an attempt to undermine the Grand Jury proceedings, question its integrity, derail its mandated function, and declare that two Grand Jury members were "ill-suited to sit on this prestigious Jury."

BACKGROUND

In California, a Grand Jury has three functions: to weigh criminal charges and to determine whether indictments should be returned (Penal Code 917); to weigh allegations of misconduct against public officials and determine whether to present formal accusations requesting their removal from office (Penal Code, 922); and to act as public "watchdog" by investigating and reporting upon the affairs of local government and its subordinate agencies and commissions to determine if those operations are being conducted efficiently and in the public interest (Penal

Code 919). In Del Norte County, the annually empanelled Grand Jury primarily serves the second and third functions.

The proceedings of Grand Juries, whether acting in a civil or criminal functions, are secret by law. Its proceedings are closed to the public (Penal Code, 915, 939, 939.1), and grand jurors take an oath not to disclose any evidence brought before the Grand Jury under penalty of misdemeanor (Penal Code, 911). Witnesses appearing before a civil Grand Jury, whether voluntarily or by subpoena are also bound by the secret nature of the proceedings. At the outset of testimony, each witness is admonished not to reveal which questions were asked, what responses were given, or any other matters concerning the nature or subject matter of the Grand Jury's investigation. (Opinion of Atty. Gen. 02-1108). The California Supreme Court has affirmed the strong historic policy of preserving Grand Jury secrecy (McClatchy Newspapers v. Superior Court 1988) 44 Cal. 3d 1162).

The justification for this secrecy requirement is in fact, that an effective "watchdog" investigation can only be conducted if witnesses are free to testify before the Grand Jury without fear of disclosure, recrimination, intimidation or retaliation. The Attorney General has concluded in a persuasive public opinion (Opinion of Atty. Gen. 02-1108) that a violation of the admonition given to a witness by a Grand Jury, sitting in its civil watchdog capacity, may constitute contempt of court. As was stated in another opinion of the Attorney General: A Grand Jury is a judicial body. Grand Jurors are officers of the court, and the jury itself is a component part to the superior court. The relationship and unity of the court and jury is such that contempt of the Grand Jury is contempt of the superior court. (25 Ops. Cal. Atty. 259 (1955).

DISCUSSION

In following its sworn responsibilities, the 2014-2015 Grand Jury conducted an extensive investigation into the operations and proceedings of the Del Norte County Solid Waste Management Authority (SWA). In connection with this investigation, all current SWA Board Commissioners were interviewed by the Special Districts Committee comprised of five members of the Grand Jury. This investigation was initiated after a supermajority vote was taken to investigate the SWA. Special District committee members were self-selected. The five SWA commissioners, and one alternate, were interviewed and asked the same 89 questions prepared by the committee ahead of time. Prior to the commencement of an interview each interviewee was given the following admonishment which has been approved by the California Attorney General:

You are admonished not to reveal to any person, except as directed by the court, which questions were asked or what responses were given or any other matters concerning the nature or subject of the Grand Jury's investigation which you learned during your appearance before the Grand Jury, unless and until such time as a transcript (if any), or a final report, of this grand jury proceeding is made public or until authorized by this Grand Jury or the court to disclose such matters. A violation of this admonition is punishable as contempt of court. (Opinion of Atty. Gen. 02-1108).

Each interviewee was further asked whether he/she understood the admonition. The reply in every instance was in the affirmative, and each commissioner then signed a statement attesting to their understanding of the admonition.

The 2014 SWA Chairperson within days following their interview, emailed a letter to the presiding judge complaining of Grand Jury misinformation, mistreatment, and questioning the Grand Jury's investigation while ignoring his "mission to improve the product and save consumers money" and the loss of public funds. This letter was also copied to his attorney. A copy of the letter is appended to this Special Report. (Addendum A: Letter to Judge Follett). The Grand Jury found the letter to be compelling, to an attempt by the SWA Chairperson to "bully" the Grand Jury. By a supermajority vote, the Grand Jury requested the Superior Court by way of the District Attorney to issue a contempt citation against the individual who willfully violated the lawful secrecy admonition of this Grand Jury. Since the District Attorney declined to file contempt of court citation against this individual, the Grand Jury has chosen to issue this report with its attendant recommendation, in the hope that through example and education, public officials might better understand their ethical responsibilities towards the Grand Jury in its "watchdog" capacity and to the public whom both serve.

It is clear that if a Grand Jury is to fulfill its statutory mandate to investigate local agencies of government, it must be able to do so in an environment where witnesses interviewed are forthright in their testimony. It is only in this way that the public is assured of the effectiveness of its government. County and city-wide training of publicly elected and appointed officials regarding Grand Jury confidentiality rules would be important in edifying this issue.

2014/2015 Del Norte County Grand Jury DEL NORTE SOLID WASTE AUTHORITY

SUMMARY

The 2014-2015 Del Norte County Grand Jury opened an investigation into the Del Norte County Solid Waste Authority (SWA). This decision was made in response to numerous articles in the Triplicate highlighting discussions of dissolving the Joint Powers Agreement (JPA) between the City of Crescent City and Del Norte County as well as selling the transfer station. These articles had been met with public opposition at SWA meetings, in letters to the editor and Coastal Voices opinion pieces.

To assess the issues brought forth by the public, the Special Districts Committee conducted an investigation which included:

- researching the history and development of the JPA
- reviewing the proceedings of current and past SWA meetings
- studying the 2009 and 2011 ad hoc committee reports
- interviewing the principals involved in the development of the SWA, current employees and appointed commissioners
- internet literature search of restructuring local governments and public-private partnerships

Throughout the Grand Jury's Special Districts Committee investigation no evidence was found that the public would be better served or money would be saved by dissolving the JPA, selling the transfer station, reducing staff, or contracting out the Director's position. The Special Districts Committee did find that:

- After five years of previous assessments, no viable alternative to the JPA has been found.
- The Commissioners varied in their understanding of the history and development and function of the JPA in protecting Del Norte County and its citizens from liability related to the closed landfill.
- The 2013/2014 Commissioners expended over \$96,000 beyond operating costs.
- Evidence collected and analyzed by the Special Districts Committee indicates that certain Commissioners violated the Code of Ethics and Conduct and engaged in practices unbecoming to their positions.

Every Commissioner elected to the SWA Board reads, signs and affirms that they understand, accept and support the Del Norte Solid Waste Management Authority Code of Ethics and Conduct. This signed agreement was written in recognition of the responsibility to set aside personal biases and consider the overall impact decisions have on the citizens of Del Norte County. [Addendum D]

The Grand Jury concluded that the current configuration of the JPA and SWA is the most successful, cost efficient and beneficial program to effectively manage solid waste in Del Norte County. Further findings and recommendations are delineated in the body of the Grand Jury's report.

BACKGROUND Pre-Solid Waste Management Authority

The Crescent City Sanitary Landfill was opened in the 1950s. Prior to that time people disposed of wastes by burying or burning trash on their own land, or illegally dumping on public or private vacant lands. From 1972 to 1994 the landfill was a “dump and cover” operation where compacted waste is covered with soil or alternative materials. The landfill is located off Old Mill Road in dune land adjacent to shoreline wetlands that are characteristic of Del Norte County coastal regions. The landfill was created by hollowing out a sand dune. A determination was made not to line the sand dune to avoid the costs of liner installation. Liners act as non-permeable barriers, preventing materials from moving into groundwater and underlying layers of rock. Unlined sand landfills are quite porous. Coupled with the abundant annual rainfall that Del Norte County receives, the landfill had the potential to leach contaminants from the waste stream into the groundwater system. This groundwater migrates into Lake Earl, a waterfowl and wildlife habitat, that is a significant resource and water supply to surrounding neighborhoods.

In 1989, Del Norte County received Cease and Desist Order #98-84 from the California Regional Water Quality Control Board (RWQCB). The Crescent City landfill was found to be out of compliance with state and federal standards and leaching environmentally hazardous materials into the groundwater. This caused the landfill to be placed into the highest threat and complexity category by the RWQCB. The RWQCB has the authority to levy fines. Del Norte County was looking at potentially incurring fines of \$100,000 per day. Simultaneously, the California Integrated Waste Management Board issued closure order [#91-02] for the Crescent City Landfill due to additional violations and threatened a \$10,000 per day fine for non-compliance,.

The County owned the landfill, but it was managed and operated by Del Norte Disposal (now known as Recology), a private company and subsidiary of NorCal Waste Systems. No monies had been collected, or set aside to fund closure and closure-related expenses. The RWQCB then fined the County for lack of progress on these issues. Del Norte County implemented a parcel fee to pay for closure expenses. This was later replaced by a temporary sales tax increase.

In the Fall of 1991, county government departments were consolidated to form Solid Waste Management, led by the new Director of Community Development. The director spearheaded the environmental review process to locate an acceptable landfill site in Del Norte County. All county sites reviewed were unsuitable, both geologically and meteorologically: too much rainfall, high groundwater level and highly fractured rock. The director found the out-of-county, out-of-state, Dry Creek landfill in White City Oregon. This is the landfill presently used by Del Norte County.

SWA Formation

Del Norte County and Crescent City governing bodies created and signed a Joint Powers Agreement in 1992, giving both entities oversight and decision-making capabilities by forming the Del Norte Solid Waste Management Authority (SWA). The SWA was charged with managing and facilitating the closure of the Crescent City Landfill, creating its functional replacement and taking over all associated fiscal liabilities as well as monitoring and managing the landfill indefinitely.

The Director of Community Development was tasked with educating county and city officials on waste disposal, the Dry Creek Landfill, and the financial merits of reducing wastes. In simple terms, reducing wastes reduces costs; waste is reduced by recycling.

To simplify a complicated, negotiated contract, the long term contract with the Dry Creek Landfill is for permanent storage of Del Norte County's solid waste by volume. The more waste hauled, the quicker the allotted space is used. Each cubic foot not put into the garbage stream saves both hauling costs and storage space. The waste stream and costs are reduced by recovering recyclable materials used in ever expanding markets.

An Executive Director with a strong recycling background was hired in 1993 to integrate recycling and disposal. The Director of Community Development (now supplanted by the new Executive Director) felt a recycling background for the executive director position was an asset.

To facilitate the transfer of waste to the disposal site and to sort wastes from recyclable materials, a transfer station was needed. While it may have been less costly to build a transfer station at the old landfill, firmer ground was required. A loan was secured through the California Infrastructure and Economic Development Bank (IBank) in the amount of \$3,535,000 to fund the construction of the transfer station site on Elk Valley Road. The transfer station became operational in March 2005. This is where trash is consolidated, sorted and transported to the Dry Creek Landfill. Recyclables are collected and sent for processing.

Early in 2009, the Chairman of the Del Norte County Board of Supervisors appointed an ad hoc committee to study the viability of continuing to have the SWA manage the county's solid waste and recycling. The February 27, 2009 Meeting Action Summary document states the ad hoc committee was to "...study the justification of the solid waste management authority."

The committee was comprised of county staff, public members, and Board of Supervisor members. The committee met, interviewed the SWA Director, toured the landfill and transfer station, and reviewed documents of the JPA (i.e., operations, budgets, job descriptions, franchise agreements, ordinances).

There was general agreement by the committee that the transfer site was an efficient, clean and well run organization and the landfill monitoring responsibilities/maintenance were meeting state requirements. No significant issues were found with SWA Board, or with the collections of solid waste. Comments were positive pertaining to grants received by SWA.

During the Budget/Fiscal/Bookkeeping review, the ad hoc committee noted the previous three years' expenses had exceeded revenues. Reasons cited for this overestimation of revenues and underestimation of expenses were the downturn in the economy and depreciation of capital assets. Members of the ad hoc committee recommended implementation of an automated accounting system and noted the current system lacked internal controls. They suggested that the SWA budgets be ratified by both the Board of Supervisors and City Council members.

Disagreement developed between committee members regarding the practice of paying stipends to the Commissioners. The Authority offered a stipend of \$300 per month as compensation for board members' time. An additional \$75 per meeting was offered for attending the monthly public meeting. (It is noted here that the acceptance of stipends by Commissioners was voluntary.) Commissioner comments included rescinding stipends, reducing the number of

meetings, and having public input and debate. Also opinions were offered on staffing levels ranging from presently adequate to overstaffed.

A legal review and summary legal review were undertaken by county counsel researching the potential ramifications of a unilateral withdrawal from the JPA by the county. County Counsel reported:

- The JPA assumes duties of regulating the franchises and protects the member parties, (City and County), from “arranger” liabilities.
- If the County were to unilaterally withdraw, title of the transfer station would continue to be vested under SWA.
- The financing arrangements between the County and the I-Bank could not be assumed by a private company.
- SWA would retain jurisdiction over non-withdrawing entity’s area and would not be obligated to accept the withdrawing party’s waste at the transfer station. This obligates the withdrawing party to then recreate its own solid waste disposal and recycling system, which must also meet all of California State laws and mandates.
- Unilateral withdrawal of either party would create disruptions in the decision making process under the present rules of the JPA as these rules require at least one member of each party to approve a measure.

The ad hoc committee met “8-10 times” and took two years to reach their conclusions. Although there were many diverse opinions and comments expressed by the ad hoc committee members, the conclusion was that the SWA continued to be a viable method of managing recycling and waste in Del Norte County. The dissolution of the JPA was not recommended. The ad hoc committee deferred on unilateral withdrawal from the JPA by the County stating, “...repercussions of county unilateral withdrawal are not clear and the committee did not evaluate the impact of this action or possible alternative strategies.”

Ad hoc committee comments did not put to rest differences of opinion regarding contract positions and restructuring. A detailed analysis was not conducted to determine if the existing entity was the most efficient and cost effective method in handling solid waste disposal and recycling needs. However, the majority of the ad hoc committee members agreed the current structure was sufficient and concluded:

“...[SWA] provides the foundation for meeting the stated purpose of the JPA...No committee members recommended dissolution of the JPA in its entirety...The ad hoc process is not intended to provide a level of review required to render decisions such as dissolution or restructuring, however it is effective in noting positive and negative aspects of the organization to allow for focused management...Future changes should be discussed by all parties jointly or in their respective public forum.”

SWA Reorganization

In the summer of 2011, the Board of Supervisors proposed the creation of another ad hoc committee to assess the future of the SWA. This time representatives of the city were invited to

participate. One county supervisor stated “Everything’s on the table..including privatization.” The SWA executive director’s response was, “If we own the facility and have control of it, we’ll never be at the mercy of a private company. Right now we have the right balance of private and public [partnership].”

Responding to the county’s invitation, the city manager proposed to end stipends effective immediately. He also recommended modifying the JPA and creating an interim board consisting of all elected officials of the Board of Supervisors and City Council. This proved agreeable to both entities. The new Authority Board met for its inaugural meeting December 2011. This was commonly referred to as the “Super Board.” All county and city governing officials were now directly involved in the oversight of solid waste management in the county.

In 2011, the SWA Board awarded Recology with a newly negotiated contract providing garbage and recycling services in Del Norte County. The contract allowed Recology to offset lower residential rates with increased commercial rates, upsetting some local businesses. The manager of Recology stated “there’s opportunity for everyone to save money under the new system if they fully take advantage of it and understand it.” Recology, Hambro/WSG, and the Authority instituted a "Less is More" campaign to educate the community. Together they advised that reducing the waste stream by recycling could decrease transportation hauling costs and landfill disposal site fees.

The First Amended JPA expanded upon the original JPA to more concisely address concerns, and new rules and regulations mandated by state agencies. It recognized SWA as a separate entity from either of its Charter Members (Crescent City and Del Norte County). Changes included:

- Procedures for adopting the annual budget of the Authority Board.
- Eliminating all compensations for Commissioners for their involvement on the Authority Board.
- An updated and expanded JPA purpose statement to reflect current activities.
- Revisions to the process for creating and ratifying ordinances
- Composition and organization of the commission (reduced to 5 members- 2 from city, 2 from county and 1 public member appointed by the other 4)
- Obtain insurance to protect the SWA and its charter members from liability

The First Amended Joint Powers Agreement was adopted in late 2012 and the ten member board was dissolved December 31, 2012.

METHODOLOGY

The history of the Del Norte Solid Waste Authority was studied, pertinent persons were interviewed, California laws, regulations, and mandates were researched. Rules for governing and codes of conduct were also read.

Interviews

- Five Commissioners and one alternate of the Solid Waste Board for the years 2013/2014

- Past Director of Solid Waste Authority
- Current Interim Director of Solid Waste Authority
- Retired County Director of Community Development
- President, Del Norte County Employees Association
- Del Norte County Auditor/Controller
- Del Norte County IT Manager and staff person
- R3 Consultants
- City Council Member
- Some applicants to the Del Norte Solid Waste Board [2015 public member position]

Field Trips

- Transfer Station
- Crescent City Landfill

Research

- Agenda Attachments/Minutes (2012 through April, 2015)
- 2014 Independent Consultant's Report [R3]
- 2009 & 2011 Ad Hoc Committee Reports
- Solid Waste Task Force Minutes
- Request for Proposals 2013 and 2014
- Sheriff's Report on the Missing Funds
- Independent Auditors Report (Scanlon)
- Joint Powers Agreement
- Ordinances 2008-01, 02, 03, 2009-01
- Proposed Ordinances 2014-01/02
- Code of Ethics (SWA)
- Revenues and Expenditures (SWA)
- Legal Counsel Findings/Reports
- Rate comparisons of surrounding counties
- Developed 89 questions with supporting documentation for Commissioner interviews

California Laws, Regulations, Mandates

- AB 341 California's Mandatory Commercial Recycling Law
- CalRecycle Grants Awarded Del Norte Solid Waste Authority (1992-present)
- Cease and Desist Order 98-84 for the Crescent City Landfill
- California Waste Management - Consideration of Board Action to Issue Notice and Order 91-02 to the Crescent City Disposal Site (17pg.)
- CalRecycle reports on Del Norte Solid Waste and the Crescent City Landfill
- California Laws related to solid waste:
 - Title 14, Division 2, Chapter 5 CCR (beverage container recycling)
 - Title 14, CCR, Division 7 (non-hazardous waste)
 - Title 27, CCR (CalRecycle and State Water Resources Control Board)

Videography

- Solid Waste Meetings 2012 through April, 2015
- City Council Meetings [Ordinances]
- Board of Supervisor Meetings [Solid Waste related]

Independent Studies

- “Restructuring Local Government” - Privatization, Pros and Cons (Cornell University) ●
“Independent Contractors and Consultants in California” - Advantages and Disadvantages of Using Independent Contractors (Methven & Associates, California Business and Securities Attorneys)

Local Resources

- Triplicate Articles - Solid Waste Authority (2001 through April, 2015)
- Letters to the Editor - Solid Waste Authority (2012 through April, 2015) ● Letters submitted to Solid Waste Authority (2012 through April, 2015)
 - Public
 - Board Members
 - Legal Counsel
 - Certified Public Accountant
 - Solid Waste Staff
- Strategic Planning Document (January 2013)

Parliamentary Procedure Guides

- Robert's Rules of Order
- Rosenberg's Rules of Order (Revised 2011) ● Brown Act

DISCUSSION

On January 30, 2013, an editorial in the online Crescent City Times quoted the newly elected District 1 Supervisor. The topic was the Joint Powers Agreement (hereafter referred to as JPA) and Del Norte Solid Waste Management Authority (hereafter referred to as SWA).

“Though well intentioned, the Del Norte Solid Waste Management Authority has devolved to become just another layer of bureaucracy. Indeed, the Authority and the Joint Powers Agreement which operates it has long outlived its purpose. Consumers are paying higher fees to remove their waste products than comparable communities without a Solid Waste Management Authority. It is time to remove this layer of bureaucracy, supplant it with an expanded Code Enforcement Department to file necessary paperwork to the State and monitor the landfill, and pass these substantial savings on to the consumers. Trash rates will decline and services will not be compromised. Del Norte County opting out of the JPA is overdue. I am hopeful the City of Crescent City will likewise see the wisdom of opting out of the Agreement.”

On March 12, 2013, the nominations of District #1 Supervisor and District #3 Supervisor to the Authority Board were approved by the Board of Supervisors (BOS). On March 26, 2013, the newly appointed Authority Board held its first meeting of the year.

On March 27, 2013, the Triplicate ran an editorial questioning the functional ability of the SWA given the BOS Commissioners:

“The new members [BOS Commissioners] are among the majority of county supervisors who have long questioned whether the authority should exist. They've implied there must

be a more efficient way to oversee Del Norte's waste, but four years of assessment have yet to produce a viable alternative.”

On April 4, 2013 the Triplicate began publishing the public's letters to the editor regarding dismantling the Authority. Letters were decisively in favor of retaining the Authority and the JPA. These controversies became the main issue for the newly formed five member SWA board and the public. To assess these issues the 2014/2015 impaneled Grand Jury undertook this investigation.

In this discussion, Commissioners will be identified numerically.

1. Commissioner #1 BOS reappointed, 2013 vice chairman and 2014 chairman.
2. Commissioner #2 BOS reappointed 2014
3. Commissioner #3 City Council reappointed 2014
4. Commissioner #4 City Council appointed 2014
5. Commissioner #5 Public Member selected by the other four Commissioners in 2013, retained seat through March 2015
6. Commissioner #6 Alternate City Council Commissioner 2014, 2013 chairman of the Authority Board

Interview Process

The Grand Jury interviewed all seated Commissioners of the 2013/2014 SWA Board and a City Council Alternate Commissioner. A slate of questions was written regarding the history of the SWA, knowledge of California state laws and regulations pertaining to solid waste, knowledge of the parameters of the JPA, and Commissioners' views on the R3 Consulting Group report.

An admonishment was read by the Grand Jury foreperson to all interviewees and was signed by everyone. The same eighty nine questions were asked of all interviewees. Some questions were modified according to the Commissioner being interviewed. Based on Commissioners' responses, follow-up questions differed. All Grand Jurors present at the interviews participated in conversations with the interviewees.

Throughout the interview process the Grand Jury found a disparity among the six Commissioners in their knowledge of the history of the JPA, its formation, and its relationship to the closed landfill. When asked what training they had received, answers ranged from being offered “a large binder” of historical reference, to personal assistance from the executive director, to “...did not receive any special training.” Similarly, Commissioners demonstrated a range of understanding of California laws specific to solid waste and recycling and the purpose of the transfer station. When asked “do you consider the transfer station an asset or a liability, one Commissioner saw the transfer station as only a “middleman cash dispensary,” while another Commissioner said it was “an absolute asset.”

The former Executive Director (hired in 1993) and the Program Manager (presently Acting Director and hired in 1994) have considerable experience and demonstrated considerable knowledge of the solid waste industry when interviewed. The Program Manager and past

Director wrote and secured grants totaling over \$2,335,000 in revenues and/or services over the past fifteen years. These grants were received to aid SWA in remaining compliant with the state's mandated rules and to help position SWA for compliance and leadership in future anticipated state requirements.

Del Norte County was the first county in the nation to have developed a Zero Waste Plan. The Institute for Local Self-Reliance found SWA was a leader in the zero waste movement. SWA actively supported Extended Producer Responsibility (EPR) and runs an EPR funded pilot program for carpet recycling and disposal of paint. SWA also manages take back programs for mercury thermostats and household batteries. Hazardous wastes can be recycled at the transfer station at the grant-funded Hazardous Waste Outbuilding.

In August 2013, the former Executive Director was honored by the California Product Stewardship Council with an "EPR Super Hero Award" for his outstanding contributions to the EPR movement. These are grant funded programs that benefit the ratepayers, the community, and the environment.

Commissioners' opinions varied on the overall value of pursuing grants. Commissioner #2 felt that grant money is funneled through the community, doesn't stay in the community, doesn't create local jobs and is used by the Authority to offset wages. Commissioner #6 liked grants and commented that the Program Director practically pays his way on grants received. The County Auditor also liked grants, with the caveat not to write grant money into the budget in anticipation of receiving the competitively funded monies. Commissioner #1 recognized grants have helped fund some improvements at the transfer station, but is ideologically opposed to grants, publicly stating, "The acceptance of grant money, another form of institutional charity, will forever doom Del Norte County to permanent poverty status." (Triplicate, Coastal Voices January 6, 2015)

Given that the grant funds received have been utilized to fund cutting edge recycling programs the Grand Jury interpreted Commissioner #1's statement with regard to "institutional charity" to be one of political ideology. The Grand Jury found that since 2013, grant application writing has stopped entirely and the only remaining grants were block grants.

A Timeline of Information

March 26, 2013 – The BOS Commissioners were unwilling to support an incremental five year pay increase for the Executive Director. This was a longevity step increase in recognition of twenty years of service and his most recent satisfactory performance evaluation. The vote was two City Council Commissioners in favor and two BOS Commissioners opposed. This was the first time the Executive Director failed to receive a five year incremental pay rate increase.

April 23, 2013 - The Authority Board conducted interviews for the public seat. Commissioner #5 was approved as the public member. At this same meeting, there were discussions about hiring a consultant to assess the performance of the SWA. Commissioner #2 suggested that the next agenda include an item for which... "staff prepare a request for proposals for release for the privatization of solid waste, if possible with the sale of the transfer station included in that...with no lapse in service." The Director said he was unclear on this direction, and not clear on the issues to be addressed by such an RFP. Commissioner #1 expressed an interest in the effects of ... "privatization of the process."

May 21, 2013 Special Joint City/County Meeting - The city and county held a special meeting on solid waste and privatization. Some board members asked for clarification on why only privatization was on the table. A sitting Supervisor asked: "If you only want to look at privatization as the option then you have skipped over all of the other possible options that are out there." Commissioner #1: "Clearly, the Del Norte Solid Waste Management Authority is not running things well, that's why we are having this discussion."

Later at this same meeting when Commissioner #1 was discussing rates, he stated: "...factually, it's over \$145/ton which is 35% more than Brookings to move our trash...that's exceptionally higher than anyone else...we have a level of bureaucracy...it's a level of government that is not functioning well...how would you like to think about having your rates lowered by 20%?" Commissioner #1 proposed to narrow the focus to privatization only. The public attending this meeting spoke out opposing the dissolution of the Authority.

May 28, 2013 SWA Meeting- The public spoke out at the process the board was taking. One of the members of the public speaking, stated:

"I don't know what the question is. I think if you guys had a good idea of what your questions were, you'd be able to find some solutions, but it seems like there is just a lot of spinning, maybe this maybe that, we've done this study, maybe we'll do this one. Figure it out, what your question is."

Commissioner #1 responded to the public speakers:

"I am of the opinion that costs are exasperatingly high on this level of bureaucracy based on certain factual information that has been presented to me to the tune of maybe 50 or as high as 70% over savings. If the consumer rates can be lowered by 20% and if the franchise fee to the county was a certain amount...and we consolidate a lot of these costs that are expensive in what I call over government...who wouldn't be for that?"

Commissioner #1 called upon the attending contracted franchisers to support him, but they remained silent.

A subcommittee was formed to determine the best structure for the Authority, make recommendations and report back to the board. At this same meeting legal counsel informed the subcommittee that the authority board cannot invalidate the current employees contract. The employees may not be legally capable of assuming private positions based on a legal decision rendered in Costa Mesa. The subcommittee then met twice (6/12/13 & 7/15/13) and disbanded when the public voiced their concern about lack of transparency and oversight. One public member stated:

"One concern is I see more and more and more things moving into that committee...that there's no public there and the information isn't getting out...if you add another thing I

think you are really getting into dangerous ground where the public is not going to be there... I really believe you need to have public input at all levels.”

June 25, 2013 SWA Meeting - Commissioner #5 presented her views: It is the board's duty “...to scrutinize this [JPA]...we have a very top heavy organization and somebody is paying for that...it is my opinion that it is administratively top heavy...I would be cutting right now if I need to.”

Commissioner #3 asked Commissioner #5 “what sections are you wanting to cut?”
Commissioner #5 responded with: “I believe the only discretionary payroll we have is for the is [sic] not for county employees, but for the Director.”

July 23, 2013 - The board informed the Executive Director that it intended to move in a new direction; paperwork and a severance package were drawn up. The Program Manager assumed the additional duties of the Executive Director in the early days of August 2013.

August 7, 2013 – Commissioner #6 and the County Auditor filed a report on missing funds with the Sheriff's Department. In a little over four months the new board had accomplished one component of its goal to theoretically save the consumer money.

The Missing Funds

It was the conclusion of three independent audits that monies were missing from the SWA based on reviews of the June 30, 2012 fiscal records. A report was filed with the Sheriff's Department by an SWA Commissioner and a county auditor who “...reported suspected embezzlement ...and suspected that two... employees... were responsible for the theft.”

The Grand Jury obtained and studied the Sheriff's Department report, the Scanlon report, and interviewed the County Auditor. The Grand Jury concurs that monies were missing over a time span of years. The Grand Jury could not find evidence of the exact quantity of money missing. Commissioners' opinions ranged from \$9,000 to \$51,000. The Scanlon Report calculated a cash shortage of \$25,732.15 on June 30, 2012.

The Sheriff's report identified several persons who may have knowledge of the circumstances of the missing money. Two involved parties were questioned. The report lists two suspects; neither were interviewed. The Sheriff's report concludes that, as per the Scanlon report: “...it would be difficult to identify a perpetrator, let alone develop a prosecutable case without additional information.” The Sheriff's report recommended “closure by report”. [see Addendum B: Del Norte Sheriff's Department File Review - Author: Retired L.A. County Deputy Sheriff/Grand Jury Member]

The Independant Consultant Report

At the September 24, 2013 Authority Board meeting, the Acting Director/Program Manager (AD/PM) and Commissioners became aware that Commissioners #2 and #6 had formed their own subcommittee of two. They tasked themselves to find consultant(s) to respond to a Request For Proposal (RFP) they had created. As per the minutes dated September 24, 2013

Commissioner #1 responded: "Chairman ..., just for clarification, are we talking about the hiring of two individuals?...it sounds very intriguing; this is the first time I am hearing this, any of this. So you guys have done an excellent job." Commissioner #5 stated, "Again, I have not seen this either."

A member of the public addressed the Authority Board:

"You may not understand my concern about how this took place, but having served on a government board as an elected official this just would not have flown at all. It doesn't matter if just the two of you discuss things, but if you discuss things in a serial matter at all, you said the board listened to the committee, even that type of discussion violates the spirit of the Brown Act. Why wasn't this item on the August agenda if this was sent out on the fifteenth?"

The Authority Board then validated the work of the unauthorized subcommittee by tasking the AD/PM with recreating an almost identical RFP for Assessment of the Del Norte Solid Waste Management Authority. This RFP was ready for release and dispersal on October 24, 2013 having been approved by the Board on October 23, 2013.

By December 2013, the Authority Board had secured a consulting company, R3, to provide an experienced, independent perspective of the SWA. The contracting company held a teleconference with the "Interim Executive Director" who served as the primary contact providing requested information to answer the Authority Board's Scope of Services questions. The contracting company's approach was to review various documents, tour facilities, interview Commissioners, franchise managers, county and city managers and Authority staff. They also observed staff performances on one occasion and attended a special meeting of the Authority Board on January 23, 2014 to receive public input.

The SWA received a preliminary draft dated February 19, 2014. Commissioner #1 placed the preliminary draft on the March 12 SWA agenda (item 7.2). The AD/PM responded to the preliminary draft with a staff report and posted both the preliminary draft and staff response on the Authority's webpage. This is common procedure following the Brown Act that agendas, attachments, etc. be publicly posted in advance of a public meeting. As a public agency the Authority is required to post to the public all materials distributed to the board for open meetings.

On March 10, 2014 an R3 consultant emailed the Authority Board and staff with a request to pull the preliminary draft as a discussion item from the agenda and reschedule that discussion once an updated draft had been submitted. The AD/PM emailed the Authority Chair (Commissioner #1) and asked if the Chair would like the item removed from the March 12, 2014 Authority Agenda. The Chairman responded (email correspondence), "No, I prefer not to pull it, but simply acknowledge receipt of the R3 preliminary Draft. I will entertain a motion to accept as a preliminary draft only..." The Chairman let the agenda stand as posted. At the March 12, 2014 meeting, Authority Board Chairman then withdrew the agendaized draft report documents without a motion, second, or vote by the board. He then publicly chastised the AD/PM for posting the report telling him: "I reminded the AD that he works for the Authority and not vice versa."

When Commissioner #3 requested further clarification from the AD/PM, the response was: "Chair has specifically said I should not have conversations with R3 without his permission." The Chair (Commissioner #1) clarified, "I'll correct that and say the Authority's permission." The

chairman then became the primary contact person to the independent consultant, replacing the AD/PM.

The consulting group's final report was submitted May 15, 2014. The cost to the ratepayers was \$33,460. It did not recommend dissolving the JPA. It did provide staffing options even though it did not provide any cost/benefit analyses in support of any of its recommendations.

In analyzing the consultant group's executive summary, the Authority board's minutes, public letters to the Triplicate, and interview responses, the Grand Jury found evidence showing attempts were made to influence the "independent perspective" of the consultant group. It is to be expected that Commissioners, knowledgeable persons and Authority staff would provide the consultants with information, clarification of the scope of services, and participate in the process as directed by the consultants. The report was to be an objective review with recommendations. Emails between consultants and Commissioners and the AD/PM were not uncommon. Commissioner comments were also solicited by the AD/PM for the April SWA meeting. On April 4, 2014, Commissioner #4 provided comments to the AD/PM correcting two typographical errors found in the report and stating his views.

"There were a few instances throughout the report about trying to save costs to SWA by shifting jobs handled by them to other entities such as the County, City, Recology or Hambro. Any responsibilities taken up by other entities in either labor or materials, which have to be passed on to someone, usually the consumer in the case in the private companies or a reduction in services in the case of the County or City as they transfer funds to cover these new costs."

Two Commissioners directly submitted comments to the consultants. From Commissioner #1 (caps his):

"THE DEL[sic] SOLID WASTE MANAGEMENT AUTHORITY CONTRACTED WITH [] CONSULTANTS TO ANALYZE AND ASSESS AUTHORITY FUNCTIONS SO THE PUBLIC MIGHT BE BETTER SERVED BY SEEKING A DIFFERENT MODEL RATHER THAN THE CURRENT GOVERNMENT MODEL. ...R3 SHOULD MORE CLOSELY [sic] EXAMINE THE PUNITIVE RECYCLING OPERATIONS THAT BURDEN THE BUSINESS OWNER. THE QUESTION MUST BE ASKED AND ANSWERED : CAN PRIVATE RECYCLERS JULINDRA AND RECOLGY [sic] OPERATE MORE EFFICIENTLY SAVING PRECIOUS DOLLARS WHICH WOULD PERHAPS LOWER THE EXORBINATE [sic] RATE STRUCTURE?"

Excerpted from a letter from Commissioner #5 sent directly to the consultant group:

"...I felt the second report had been subjected to unauthorized influence of staff, who are self promoting...Consequently, Staff provided R3 with information of which the Board was not aware nor did it approve. Remember, it was the Board who hired R3, not Staff...Staff, of course, in trying to justify their status quo, asked R3 to provide detailed information which would support their position."...In the new report, ...the question is asked, 'is the JPA the most effective and efficient entity for managing solid waste in Del Norte County?' Your answer is Yes. This needs to be changed!"

The Grand Jury's assessment was the tone and content of the above two communications were inappropriate and an attempt to influence the outcome of the consultant group's report.

As per Commissioner #3, the hiring of a consultant group had been presented to the public as a necessary expense to restore the public's trust. The public responded with skepticism as to the necessity of another study due to duplicate efforts and costs, namely \$33,000. A member of the public spoke: "as a fiscally conservative person, I am still frustrated that we spent \$33,000 for R3 to tell us old news." [April 1, 2014 SWA Meeting]

Commissioner #2:

"It's kind of ironic to me that people are upset that we spent \$30,000 on a consultant but nobody is unhappy that \$29,000 went missing. That's your money. Whether it is tax money or coming out of your pocket as a consumer; \$29,000 missing is not okay"...Why we are here today, the four audits, lack of cash controls, net deficits and the \$29,000 missing money was the tip of the iceberg, that was the final straw that broke the camel's back. " [April 1, 2014 SWA Meeting]

The conversations continued over the next few months justifying the expense for the R3 report.
Commissioner #1

"I believe in saving money. I believe whatever benefits the taxpayer is good. I happen to believe that the private model can be very successful. It is incredibly shocking to me that no one seems to pay much attention to the missing \$29,000. I certainly don't want to see a repeat of any missing money." [Triplicate August 13, 2014]

The Authority Board's proposal for Scope of Services originally asked for analysis of seven areas, with "Cash Controls and Procedures" being item #1. However, service requests for items #1 (Cash Controls and Procedures) and #5 (Small Volume Transfer Stations) were subsequently removed from R3's purview.

In the spring of 2013, the Authority Board hired a forensic accountant. Cash controls had already been put in place in the fall of 2012 and finalized with the auditor in November, 2012. Surprise cash counts were started in late November, 2012 and these cash counts have balanced to the penny as of April, 2015. The Grand Jury questions why Cash Controls and Procedures were listed on the Scope of Services.

During Grand Jury interviews all Commissioners defended the decision to hire an outside consultant. They agreed that the \$33,460 consulting group fee was a necessary expense because it validated the JPA as the best way to manage solid waste in Del Norte County. Commissioners responses to the R3 report were:

- "My role as chairman, board member and Commissioner is to seek out expert advice. You have to pay for that. Choose your experts and try to glean out what is applicable and what is not."
- "Yes and no; didn't take into consideration uniqueness of Del Norte County. I pushed for a consultant because of division in community and JPA...R3 came out for a week and

disappeared. Their finding validating the JPA was what I had hoped for, but they hedged their bets with recommendations.”

- “Conclusion of R3- if it isn’t broke, don’t fix it! R3 did a terrible job...”
- “Yes, outside professionals take a look and compare what we have here. I had written letters and asked for more information and didn’t get answers back.”
- “Not satisfied, the board pulled back and seems to be a political thing...I think needs to be a utility and it’s acting like a social change organization.”
- “I am sort of half and half. JPA and SWMA is the best we can do for our county, but not satisfied with what they said about staffing. The only thing supporting R3's opinion to combine the director and manager positions was mostly opinions and the will of other Commissioners. ...I think we got our money’s worth.”

Through watching videos of Authority Board Meetings and reading letters to the editor, the Grand Jury identified that the public did not concur with the Commissioners. The outspoken public viewed the hiring of an independent consultant as wasted money. The Grand Jury concluded some 2013/14 SWA Board Commissioners' opinions and decisions overlooked the voices of the people resulting in unnecessary expenses and did not alleviate the public's mistrust.

Rate Structure

Minutes of Authority Board meetings showed SWA Rate Structure compared to other counties continued to be a point of contention between the public and Commissioner #1. Commissioner #1 publicly stated rates could be reduced by 20% -25%. He repeated this allegation in a Coastal Voices article (Triplicate March 7, 2015) “...that at least 25% maybe more, can be saved and no jobs would be lost...if private companies assumed more responsibility at the transfer station.” Commissioner #1 stated his source of information was the former (recently deceased) general manager of Recology Del Norte.

Recology Del Norte contracts with the SWA for pickup of recyclables and trash from the consumer. Recology does not manage the transfer station. Hambro/WSG contracts to manage the transfer station and haul trash to the landfill. Currently, over 60% of the revenues from the transfer station pay Hambro/WSG. The remaining revenues pay for staff, post closure maintenance of the landfill, and the IBank loan. Under the Authority's agreement with Recology Del Norte, (Section 7.030H), there was no limit to the number and frequency of cost-saving proposals that could be put forth. To date, no such proposals have been submitted to the Authority. While meeting with the AD/PM, the Vice President and Assistant Group Manager of Recology said he had never received anything in writing regarding these assertions. He also stated that there are specific employees that perform fiscal analyses for Recology and the former general manager was not such an analyst. The continued assertions by Commissioner #1 regarding lowering rates without job loss and increasing privatization of the recycle/waste-stream have not been supported by facts and/or fiscal analysis.

A comparison to contiguous counties shows SWA rates are highly competitive and lower than Humboldt and Curry Counties [see chart below]. Some other California counties may have lower rates, however, these counties’ demographics, cultures, population sizes, economies, climate, topography, and most importantly, distance to haul may not be comparable to Del Norte. It is also not clear if these “comparison counties” are liable for a Class 1A toxic landfill as is Del Norte County.

Comparison of Rates Charged for Solid Waste Services in the Del Norte Region

	Humboldt County FY 13/14					Del Norte FY 14/15	Curry County FY 13/14	
Location	Redway	Fortuna	Eureka	McKinleyville	Orick	CC, Gasquet Klamath	Light	Heavy
Cost per ton Waste	\$181.00	\$175.00	\$154.28	\$240.00	\$327.27	\$142.24	\$226.36	\$166.00
% more than DNSWA	27%	23%	8%	69%	130%		59%	17%

The SWA has lower rates for solid waste services than Humboldt County, California or Curry County, Oregon. Further, the Grand Jury determined that researching other counties' methodologies and systems can be valuable but no legitimate comparisons can be made as to rate structuring and efficiency of operation.

Cost Overruns

At the SWA Meeting of August 13, 2014, the County Auditor/Controller addressed the board stating they were in the red and exceeding their budget in four major expenditure areas: Professional Services, Legal Services, Treasurer Services and the severance package for the former director. These actual comparisons are displayed in the chart below.

Actual Comparison of Costs Between Fiscal Year 12/13 and 13/14

Item	FY 12/13	FY 13/14	Difference
Legal Counsel	\$12,777	\$21,564	\$8,787
Treasurer	\$4,500	\$18,255	\$13,755
Severance Pay		\$35,000	\$35,000
Scanlon Report		\$5,000	\$5,000

Consultants Report		\$33,460	\$33,460
T. Supahan (Strategic Planning)		\$500	\$500
TOTAL	\$17,277.00	\$113,779.00	\$96,502.00

The Grand Jury concluded the 2013/2014 Authority Board increased their expenses by \$96,502 resulting in a negative \$18,000 in its net position.

Staffing

The number of staff employed by the SWA has been an issue of debate for the Authority Board. SWA is a CalRecycle approved Regional Agency. As such, it is responsible for reporting data on waste diversion and disposal streams to state regulatory agencies. As a regional agency, SWA is required under Public Resource Code Section 40970 to submit reports as the entity representing both Del Norte County and Crescent City.

The Authority is a Group Two Facility Owners/Managers. This means that the facility is managed through contracts with private sectors or county or city departments, but does not provide hands-on operations. Recology Del Norte picks up trash and recyclables, hauling to Julindra Recycling and the Transfer Station. Hambro/WSG manages the Transfer Station and hauling waste to Dry Creek Landfill. The Authority manages the gate's tipping fees and oversees its contracts with Recology and Hambro/WSG.

SWA owns the Transfer Station, is responsible for the closed Crescent City Landfill, and operates under a CalRecycle approved JPA. This makes SWA relatively unique among Solid Waste Authorities. In most other counties, the county owns the facilities.

SWA is unique, because it is a small county by population size and has a larger staff than other small county JPAs. This is due to the larger responsibilities taken on by the Authority and taken from the county's responsibilities. Authority staff monitor, manage, write and submit reports concerning the closed Crescent City landfill. Authority personnel are paid by ratepayers and self-haulers; whereas county employees are paid by taxpayers. The Authority has access to the Del Norte County Code Enforcement Officer by contractual agreement on a will call basis. The SWA is self-sufficient and unfunded by taxpayers.

In early August of 2013, the Authority Board severed its relationship with the Executive Director and assigned executive director duties to the program manager. This was to be a temporary addition to the program manager's workload. Neither the 2013 or 2014 Authority Board attempted to recruit a new executive director, or an interim director, or remove tasks from the adopted Work Plan to match the now reduced staffing. This resulted in missed deadlines and tasks not being completed. The AD/PM must prioritize his responsibilities and time to complete assigned tasks.

This situation has also resulted in lost revenue. A method to address the administrative overload was to utilize the contracted treasurer and legal counsel. Administrative staff would often

perform preliminary drafts, review and interpret agreements, draft Change Orders and investigate personnel issues. Without staff to perform these duties increased legal counsel time was utilized. The Board increased its budgeted treasurer time to manage accounts and train the AD/PM. Having these tasks conducted by contractors increased costs. The hourly rates for contractors is greater than the average hourly expenses for a director or program manager.

The Grand Jury recognized the Administrative Staff [executive director, program manager] needs to have significant expertise in solid waste management due to the complexity of the solid waste stream and ongoing changes in California state legislation. Knowledgeable, competent SWA staff are capable of assisting and advising legislators regarding local issues and ramification of legislative decisions. Coordinating efforts with other rural counties to make our voices and concerns heard in Sacramento regarding pending legislation is critical.

The Grand Jury concludes significant management problems have been created by the 2013/2014 SWA Board's decision to reduce staff. This reduction in staff is affecting the functioning of the operations of the Authority.

The AD/PM has notified the Board of tasks not being completed on a monthly basis. He states that he has attempted to minimize potential lapses in services or compliance. However, as of August 8, 2014, CalRecycle had not received the 2013 Electronic Annual Report (EAR) for the SWA. The EAR is the foundation document for evaluation of compliance with the diversion requirement of law AB 939. If the EAR is not received, CalRecycle staff are forced to begin review of SWA programs based upon historical information and default data. The fines for being found out of compliance could be accrued at a rate of \$10,000 per day. Furthermore, compliance to the California Water Quality Board (CWQB) testing requirements for the closed landfill has fallen behind risking exorbitant fines for which the county is not insured.

The Authority Board is out of compliance with its own Mission Statement that it adopted in 2014. "The Authority's Mission is the management of Del Norte County solid waste and recyclable material in an environmentally sound, cost effective, efficient and safe manner while ensuring 100% regulatory compliance with law." Required reports are not being submitted on time, due to staff shortages.

The 2013/14 Board took no action to reduce the list of responsibilities and the workload to match the staffing level. Taken together, these actions resulted in deferred activities, missed deadlines and a general accumulation of unaccomplished administrative tasks and responsibilities. The separate positions of executive director and program manager at SWA are justified based on the number and diversity of responsibilities the Authority performs.

The former Director of Community Development commented:

"Many hours were spent creating the Waste Authority. The county and city argued about who was responsible and ultimately concluded every person in the county generates waste, so all people are responsible. The SWA provides a source of revenue stream for financing the transfer station, for closing and managing the landfill and for the state mandated monitoring of the water quality at the former dump site. We are legally required to monitor the landfill indefinitely and water quality standards are always changing and becoming more strict. While the formation of the JPA and SWA may have

started out as an economic decision, it has also become an entity responding to state mandated goals set by the California State Solid Waste Board. To this day, I do not see a better solution.”

The former Executive Director states:

“You need a public agency to oversee privatized companies. The transfer station being owned by the public allows a competitive process....Currently the transfer station is a public agency with open accountability. If you privatize all, ...you no longer have access to reports or the ability for transparency. Once you give up the structure and the staff you have no leverage. When privatization occurs, you have lost the ability to negotiate....The rates were negotiated whereas they could only increase a certain percentage each year. This ensures price stability. The contract stated that Recology must have a contract with a recycler. The JPA created this. If you privatize, the garbage company sets the rates, the garbage company makes the money.... You must always have an analysis prior to moving forward. What are the cost ramifications? What are the ramifications of work not being completed?”

On May 15, 2014, the R3 Independent Consulting group found the SWA to be:

“...the most effective structure for managing solid waste in Del Norte County. Through the JPA structure, the County and City are able to share the benefits of critical infrastructure, share the liability for the closed Crescent City landfill and realize economies of scale on a number of levels. It is unlikely that any reasonable alternative structure to the JPA would result in significantly lower cost to the ratepayers if any, for a similar level of management oversight.”

The Grand Jury concludes that the current structure of the JPA and SWA is the most successful, cost efficient, and beneficial way to effectively manage solid waste in Del Norte County. It also continues to be the most appropriate answer to the toxic problems created by the landfill, the appropriate response to CalRecycle, the CWQB and state mandated regulations and laws.

A Vision for the SWA

The AD/PM requested comments from the board in preparation for the April 9, 2014 meeting. The topic was the completed independent consultant group's report. Commissioner number #4 's response to a request for comments regarding the R3 report:

“My opinion is that all JPAs are unique in that every community that they serve is unique, so the current structure of SWA really can't be compared to other JPAs in either staffing or services provided. The staffing of SWA might be perfect for what we have here in Del Norte County and for what services are provided....future structure of SWA will be determined, hopefully with a fair and balanced rate structure for both while keeping essential State and Federally mandated waste-stream reduction programs running efficiently and effectively....My opinion is that the SWA needs a strong director that can make decisions about the staffing requirements he/she needs to fulfill the purpose and

goals set forth by the people and the Board of Commissioners on what SWA role is in Del Norte County.

The director needs to produce a five-year strategic plan that gives a road map of where SWA will be going to in the future. It will be reviewable on a yearly basis with help from the ever-changing Board of Commissioners, but be followed to ensure continuity in fulfilling the purpose of SWA's mission in serving Del Norte County.”

Legal Opinion Concerning Associate Members

Concurrent with the investigation of the 2009 - 2011 Ad Hoc Committee report, County Counsel was tasked with an analysis of legal ramifications of unilateral withdrawal by the county from the JPA. County Counsel identified some important issues. The future existence of the SWA (in County Counsel’s legal opinion) would be at risk of termination should either of the two charter members (County and City) withdraw from the Joint Power Agreement. Legal Counsel proposed termination could possibly be averted if there are Associate Members to SWA.

Associate members are public agencies and are non-voting members that can be admitted by a minimum 3-2 vote of the Authority Board of Commissioners. A side agreement between the governing board of the non-voting Associate member and the Authority would be necessary. [Public Agency as defined by Gov. Code 6500; a Community Service District qualifies, and Elk Valley Rancheria has special legislation to join JPA]. The Grand Jury concluded that according to legal counsel, the JPA and/or the SWA are at risk of dissolution at any time by a simple majority vote of either of its charter members.

Code of Ethics and Conduct (COE)

The purpose of the COE is desiring of the “...highest level of ethical conduct for the...Commissioners, members, appointed commissions and committees and alternates of each body.” All Commissioners read and signed the “SWA Code of Ethics and Conduct for Board Commissioners and Members Appointed to Commissions and Committees.” Public officials are to comply with both the letter and spirit of the laws and policies. They are to be independent, impartial and fair in their judgment and actions. Their position of authority is to be used for public good not personal gain; and public deliberations and processes are to be conducted openly, unless legally confidential, in an atmosphere of respect and civility. To fulfill this mission an eighteen point COE was created. The document concludes with a statement of commitment to adhere to the COE so residents and businesses are entitled to accountable and fair representation and government. All Commissioners had read and signed the COE [Addendum D].

- COE #3: Respect for Process - Commissioner #5 violated the COE while serving as chairperson of the Solid Waste Task Force. The Chair conducted meetings without quorums, made motions and took votes, wrote agendas that did not include a review and approval of prior minutes. The Chair could not produce records and documentation for statements and votes, yet presented them as valid to the SWA board. Only when questioned by a Commissioner on July 24, 2012, at an Authority Board meeting, was it learned that the entire Solid Waste Task Force had never discussed or made a recommendation on the issue to which the Task Force chair was presenting and recommending changes. The chair repeated this at the Solid Waste Task Force meeting of September 13, 2012 reporting “...at the August 2012 meeting of the Local Task Force,

...there was a vote to recommend that the Authority repeal Ordinance 2001-02.” The SWA Director stated that “he had e-mailed the draft minutes he had recorded from the August meeting, up until the time he had to leave, and had not received any additions to those minutes, so that vote had not yet been included in any minutes.” At the same meeting, the Chair reported having in possession a written note from the city manager and city code enforcement officer supporting eliminating the Authority's Nuisance Ordinance. The Chair would not provide a copy of that statement to the Director. The Chair brought forth her own motion recommending that the Authority repeal Ordinance 2008-01. That recommendation had not come from the subcommittee. When asked for a copy of the evaluation matrix the Ordinance subcommittee had been using, the Chair declined to provide it professing it was incomplete.

- COE #1: Act in the Public Interest - Commissioner #5 has openly stated she became involved in solid waste issues to protect her business and represent the business community. “The reason I’m involved is that the cost to businesses have gone up astronomically.” [TriPLICATE April 4, 2014]
- COE #4: Decisions Based on Merit - Commissioners #1, 2, and 5 continued throughout 2013/14 to push for increased privatization of the SWA in absence of any costs/benefits analyses. They solicited legal counsel in spite of the fact they had previously been advised by legal counsel not to proceed based on a legal decision rendered in Costa Mesa.
- COE #1: Act in the Public Interest - The professional and personal conduct of public officials must be above reproach and avoid even the appearance of impropriety - Commissioner #1 in a Coastal Voices article in the Del Norte Triuplicate, March 7, 2015 stated he was repeatedly the lunch guest of the general manager of a company the SWA contracts for services. Commissioner #1 writes,

“[General Manager]’s famous words: ‘C’mon, I’m taking you to lunch and we’ll talk about it.’ [General Manager] and I talked long and hard about the Solid Waste Authority. It was [General Manager]’s position that significant money could be saved if the private sector assumed more responsibility at the transfer station. I believed it then and I believe it now that the general manager of Recology Del Norte identified the financial dynamics spot-on. He shared his opinion on this matter and I questioned him long and hard...That discussion continues without my friend taking me to lunch and sharing life experiences.”

Public Officials accepting lunches carries with it the appearance of impropriety and a violation of the Fair Political Practices Act.

- COE #5: Communication - June 11, 2014 SWA Meeting - Commissioner #2 openly chastised the AD/PM - “I have talked to the Auditor...and actually talked to Sheriff Dean Wilson, the amount was \$29,000 that was stolen or embezzled, same thing and I would appreciate it for future representation on this board that you are accurate on your numbers because this is not the first time at our board presentation that you presented it as \$9,000. The correct amount is \$29,000 stolen money from the Authority. And I would appreciate going forward in the future that you don’t misrepresent this board because this is not the

first time you've done this and you are an extension of this board. Make sure the facts are correct."

- COE #5: Communication, #15 Harassment and Discrimination, #18: Statement of Commitment - March, 2015 an applicant for the public member seat to the 2015 Authority Board introduced himself to Commissioner #1 when the applicant recognized him in public. The applicant knew Commissioner #1 was on the SWA Board and wanted to seek the Commissioner's support in his quest to become the public member of the SWA Board. Commissioner #1 inquired as to the applicant's political party affiliation and denounced the applicant in response. Commissioner #1 told the applicant that the applicant was "...in the pockets of the wrong people and not thinking for himself. Commissioner #1 suggested that the applicant withdraw his name from consideration. The applicant told the Grand Jury that he found the conversation "demeaning" and concluded that "...what [Commissioner #1] should have done was state, '[Applicant], we can't talk about this.' and kept on walking."
- COE #1: Act in the Public Interest, #3 Respect for Process, #5 Communication - March, 2015, another applicant for the public position on the SWA board received a phone call from Commissioner #1. As per this applicant, Commissioner #1 was seeking a private interview with him for the position of the Public Member on the SWA Board. This applicant was upset. During this "private interview" Commissioner #1 questioned the credentials of this individual. "This to me is a real problem; no transparency. Real conflict of interest. You always avoid the impropriety of not having full transparency." The applicant stated to the Grand Jury that Commissioner #1 told him "...it's very unlikely you're going to get this job; but we'll find another place for you in government." The applicant stated, "I was put back by fact that he (Commissioner #1) felt he was judge, arbitrator who was to make the decision, not the board. He has tainted me in this position."
- COE #2: Comply With the Law, #3 Respect for Process, #5 Communication, #16 Implementation of Code of Ethics. Commissioners #1 and #5 have stated that they have individually met with the general manager of an SWA contracted company regarding the sale and purchase of the transfer station. In interviews, all other Commissioners stated they were unaware of this. Commissioner #3 stated that he had been asked by the general manager to meet, but declined because he didn't think it was appropriate.

The Grand Jury concluded that meeting with a contracted vendor outside of the Board's purview and discussing a possible sale of the Authority Board's property shows a lack of transparency, a lack of respect for the process and rules of order, and a conflict of interest in representing themselves to the board and public.

- COE #2: Comply with the Law, #3 Respect for Process, #6 Conflict of Interest and #11 Representation of Private Interests, #16 Implementation of the Code of Ethics, #18 Statement of Commitment - Commissioner #5 has presented herself as having a determination to repeal ordinances relating to blight. Commissioner #5 tried in her role on the Solid Waste Task Force to repeal these ordinances. Commissioner #5 sought the public member seat because of the high rates for businesses. She has argued to the

Authority Board and the public that rates are an unfair burden on her business and the business next door to hers, even though she is a self hauler and not subject to these rates.

In September 2014, Commissioner #5 “presented” four letters to be attached to the September 10 agenda (Addendum C). The letters were purported to be from four different local business owners upset with the rates. One was acknowledged to be from herself. The other three were from a franchise restaurant located next to her business, a hotel and an apartment complex. All four business letters were devoid of letterhead, dates or headings, and all had similar fonts and wide margins. Two letters were signed by “managers,” two were not. The Grand Jury spoke with the owner of the franchise restaurant who denied having any knowledge of a letter, nor did he write it. The letter from Commissioner #5 and the letter purported to be from the restaurant owner were of identical italic font, extra wide left margin, and identical style. Neither were signed. Researching further, the Grand Jury discovered the restaurant, the hotel, and the apartment are all investments of Commissioner #5’s family.

Commissioner #5 failed to conduct personal and public affairs with honesty, integrity, fairness and respect for others.

- COE #1 Act in the Public Interest, #3 Respect for Process and #5 - Communication - The membership fee for 2013/2014 year of \$6000 to Environmental Services JPA of the Regional Council of Rural Counties has not been paid. The Authority Board has not authorized payment. Although the SWA pays the membership fee, the county is the member. Both county and the SWA benefit from membership. The Board of Supervisors was made aware of the Authority’s lack of payment through a member of the public during the public comment period of a supervisors meeting on October 14, 2014. The chairman of the BOS stated he would give the Authority “the benefit of the doubt” as to whether there was an oversight or an action to strike. [The May 8, 2014 minutes of the SWA Board meeting show the membership fee had been struck from the budget.] Even though Commissioners #2 and #5 were present at the October 14, 2014 Del Norte County Board of Supervisors meeting, the request to re-agendize this issue was not submitted to the AD/PM as of April, 2015. The 2013/14 membership fee to the Environmental Services JPA of the Regional Council of Rural Counties was not paid. This action places the SWA in non-compliance regarding its responsibility to the county. As stated by the BOS Chairman on October 14, 2014, “in order for the SWA to be relieved of its fiduciary responsibility, we would have to pass a resolution at this board [BOS].”
- COE#14 Positive Workplace Environment, #13 Policy Roles of Members - The SWA Board has produced added stress and decreased job security to the staff at SWA with the repeated ad hoc committee formations, RFPs, and legal counsel inquiries; all with the theme of altering the structure of the SWA, dissolving the JPA, further privatization of the required operations, and selling the transfer station.

Commissioner #5 notes, “Honestly, staff and the board are at odds with each other.” The former Director thought the 2013 board, from its conception, had the mindset to let him go all along. Evidence to support this is Commissioner #5s comment (June 25, 2013 SWA meeting) about the SWA being administratively “top heavy” and wanting his position “cut.”

Videos of an SWA meeting (January 28, 2014) show an angry gatekeeper pleading with and denouncing the board for creating the perception of lack of job security. A union representative speaks at numerous meetings regarding board decisions of potential contract violations. Disagreements were exchanged between the union representative and Commissioner #1 about involving legal counsel (August 13, 2014 SWA Meeting). A question of concern is the legitimacy of the duration of time the Program Manager has been tasked with the Executive Director's job in addition to his own. It is presently approaching two years. Commissioner #6 (2013 Chair) thought the acting director position would be temporary for the program manager and the board would be interviewing prospective directors by the end of August 2013.

The AD/PM was given a mixed performance review in 2014. The previous 19 years of reviews had been overwhelmingly positive. The appraisal was based on evaluations by four out of five Commissioners with the overall rating of "Marginal." Numerically the Commissioners' ratings averaged 2.92, but rather than round up to the next whole number (Satisfactory), which is standard practice, the Commissioners chose to round "down" (Marginal). Commissioner #5 when interviewed, at one point states "he's (AD/PM) a workhorse, an absolute workhorse." Shortly thereafter Commissioner #5 then states "I don't know what he does with his time, some of his tasks he lists shouldn't take as long as they do." Commissioner #6 states "I personally feel AD/PM is a valuable person." Another Commissioner stated the "AD/PM is being railroaded out."

Commissioner #1, #2 and #5 spoke unfavorably about the AD/PM. Commissioner #5 stated she spent much time in the office. Her role is "Oversight. I help to manage the business, help to make sure things get done on time, watch money and time and oversee the staff and remind staff of deadlines and things they should be doing." Commissioner #5 also stated she felt this is her second business and that "I monitor, oversee and manage." Pertaining to gate staff, Commissioner #5 says "it appears that gate staff can be promoted to help with bookkeeping. It is wring [sic] to promote employees that are not qualified and have no aptitude for the job."

The Grand Jury concluded Commissioners #1 and #5 created a hostile workplace environment putting the AD/PM in the position to "protect his staff."

The Grand Jury concluded Commissioners #1, #2 and #5 exhibited personal biases against the AD/PM and other staff.

The Grand Jury concluded that staff did not receive the needed support from the 2013/2014 SWA Board Commissioners.

- COE #17 Compliance and Enforcement - "Complaints alleging a violation of this Code of Conduct by a Public Official should be directed to the Authority's Director." The Grand Jury recognizes the Authority Director would be in an awkward position as an "At Will" employee overseeing the Authority Board, who has the authority to terminate director's employment.

- COE #1 Act in the Public Interest - At the November 13, 2013 Authority Board meeting, the AD/PM informed the board of an opportunity to participate in a CalRecycle 2014 Statewide Waste Characterization Study. The study was organized by CalRecycle and was cost free to participating agencies. CalRecycle would conduct a systematic survey of the waste-stream by analyzing the contents of the garbage trucks. The AD/PM noted that the last time such a study was completed was in 1997 and recommended participation to “...provide valuable waste-stream information for future program planning.” Commissioner #3 made a motion to participate which died due to lack of a second. Commissioners #1, 2, 5, and 6 sat silently.

Conclusions

The Grand Jury researched and read agendas, attachments and minutes of Authority Board meetings. We watched videos of all Authority Board meetings from March, 2012 through April, 2015. We conducted a search of all Triplicate publications pertaining to solid waste from 2009 through April, 2015. We read ad hoc committee and R3 Consulting Group reports. The Grand Jury finds no fiscal analyses or independent impact reports have been presented to support many of the assertions made by certain 2013/2014 SWA board members. Therefore, this Grand Jury asserts that the opinions expressed by some Commissioners of the 2013/2014 SWA Board were not based on factual data. No documentation supporting their opinions was presented to Del Norte County residents concerning the following issues:

- dissolving the JPA
- privatization/selling of the transfer station
- combining the Director and Manager Position and/or contracting this position
- contracting out employees
- lowering solid waste disposal rates
- job shifting

The Grand Jury asserts that the 2013/2014 Authority Board was deficient in its obligations and fiduciary responsibilities to the citizens of Del Norte County. The level of bias demonstrated in many board decisions, the high degree of discord between the SWA board and its staff, and their pattern of disregard for the wishes and well being of the public are unacceptable for our community.

FINDINGS

F1. The JPA and the SWA continues to be the most appropriate answer to the issues created by the landfill and the appropriate response to CalRecycle and state mandated regulations and laws.

F2. Some decisions made by the Authority Board significantly affected the functioning of the operations of the SWA, reducing its effectiveness.

F3. Multiple violations by Commissioners #1, 2 and 5 of the Code of Ethics occurred.

- F4.** Commissioners #1 and #5 did not consistently conduct public affairs with honesty, integrity, fairness and respect for others.
- F5.** Commissioner #1 committed numerous and varied violations of the Code of Ethics and Conduct.
- F6.** Commissioner #1's conduct is potentially harmful and divisive to the functioning and vested interests of the SWA and the community.
- F7.** Commissioner #5 committed multiple violations of the Code of Ethics and Conduct.
- F8.** No fiscal analyses or cost/benefit impact reports were produced to support some of the decisions the Authority Board rendered.
- F9.** No fiscal analyses or independent impact reports were produced to support further privatization of the SWA or selling of the transfer station.
- F10.** SWA has lower disposal rates than Curry County or Humboldt County.
- F11.** The SWA has been understaffed since August 2013.
- F12.** The Authority Board failed to modify the workload to accommodate staffing levels.
- F13.** The SWA is presently out of compliance with its Mission Statement and some state agency regulations due to failure to produce mandated reports in a timely manner.
- F14.** The costs for managing the SWA increased under the 2013/14 Authority Board.
- F15.** Applications for grant monies ceased under the 2013/14 Authority Board.
- F16.** The JPA and the SWA are at functional risk should a charter member choose to withdraw from the JPA.
- F17.** The actions of Commissioners #1, 2 and 5 contributed to a hostile work environment.
- F18.** Commissioners #1 and #5 demonstrated a lack of transparency in decision processes and outside activities.
- F19.** Certain Commissioners made misleading statements as to the need and reason for the \$33,000 spent on R3 study.

F20. The tone and content of Commissioner #1 and #5's communications with R3 were inappropriate and an attempt to influence the outcome of the consultant group's report.

F21. Commissioners were varied in their understanding and knowledge of the JPA and state rules and regulations and operating standards.

F22. COE #17 places the Executive Director in the precarious employment position of disciplining his employers.

F23. The Grand Jury finds the continued assertions by Commissioner #1 regarding lowering rates without job loss and increasing privatization of the recycle/waste-stream to be unsupported by facts and fiscal analysis.

F24. SWA Commissioners can serve on the solid waste task force and board concurrently.

RECOMMENDATIONS

R1. The Solid Waste Authority should return to full staffing with separate positions for the Executive Director and Program Manager.

R2. All Commissioners should be educated about the history of the JPA and SWA and state rules and regulations. All Commissioners should read the 2014/2015 Grand Jury History of Solid Waste Authority.

R3. The Solid Waste Authority should resume its applications for grant monies.

R4. Commissioner #1 be removed from the Solid Waste Authority Board for misconduct and multiple violations of the Code of Ethics which affected the performance of his official duties.

R5. The Grand Jury recommends Commissioner #1 be referred to the Board of Supervisors for consideration of disciplinary action.

R6. The SWA Board recommend the removal of Commissioner #5 from the Solid Waste Task Force for multiple violations of the Code of Ethics.

R7. The Solid Waste Authority should investigate adding Associate Members to the JPA.

R8. The Solid Waste Authority should revisit its plans for a resource and recovery park as a backup and complement to the present recycler in Del Norte County.

R9. The Board of Supervisors and City Council should appoint Commissioners who want the

JPA and Solid Waste Authority to be successful.

R10. The Solid Waste Authority Board study the Code of Conduct #17 and consider reorganizing the corrective process since it puts the Executive Director in a difficult position of correcting his employers.

R11. The Solid Waste Authority should follow and act in accordance with its own Code of Ethics.

R12. The Solid Waste Authority should conduct all its business in a transparent and public manner.

R13. The Solid Waste Authority should prioritize an immediate return to compliance in all regulatory matters.

R14. Solid Waste Authority Commissioners should not simultaneously be members of the Solid Waste Task Force as it has potential to be a conflict of interest.

Commendations

The Grand Jury commends the employees of the SWA in the following areas:

- Providing exceptional customer service and professionalism to the public utilizing the facility.
- Care of the transfer station facility, keeping it as clean as possible and in excellent condition.
- Development, implementation and operation of multiple recycling programs that have made Del Norte County a recycling leader nationwide.
- Development and implementation of accounting policies and procedures that have resulted in a two year cycle of total accountability of funds.

ADDENDUM A

Letter to Judge Follett

From: Roger Gitlin <rgitlin@co.del-norte.ca.us>

To: william.follett <william.follett@delnorte.courts.ca.gov>

Cc: Tod Roy < >

Sent: Fri, Dec 5, 2014 9:02 am

Subject: The Grand Jury

Good Morning, Hon. Judge William Follett:

I have waited a few days to collect my thoughts and have decided to contact you directly to express my extreme disappointment and utter dismay re: my recent visit to the Del Norte County Grand Jury. I was asked, not subpoenaed, to appear before the Grand Jury Tuesday December 2 to answer questions with regard to the operations of the Del Norte County Solid Waste Management Authority where I currently serve as the Authority's Chairman. I was not asked to take an oath which I presume the Jury would want to know, under oath, I was telling the truth. I was told by Jury Foreman Tod Roy no prior preparation was required. Also, I signed a confidentially agreement. I was prompt in showing up for scheduled 2pm appointment.

When initially told by Dr. Roy I would be there for as long as three hours, I was a bit taken back as no such time frame was presented to me prior to the meeting. It became apparent to me within a short time questions asked of me were absent of question marks, and the Jury was promulgating an agenda defending the status quo and challenging my mission to improve the product and save consumers money. Much to my dismay, it became apparent the Jury was not a mission of truth but was on a mission of ideology. Grand Juror Paula was grossly inappropriate when I questioned one of her questions, and she retorted in a bully mentality, " we ask the questions, here." I almost walked out at this juncture when confronted with her inappropriate behavior, but reconsidered. If the only criterion to sit on the Grand Jury is to be a citizen of Del Norte County, perhaps your office should re-examine its entire criteria protocol to sit on the Grand Jury. This Grand Juror in my opinion is ill-suited to sit on this prestigious Jury and brings dis-repute to the Jury. Similarly, Dr. Roy, as the foreman, is ill-suited to sit on the Jury. His questions were fraught with editorial statement, reflecting an ideology which was neither objective or neutral. Unless, I am subpoenaed, accompanied by legal counsel, I will NEVER voluntarily appear before the Grand Jury as long as Dr. Tod Roy sits as its foreman.

Of the five grand jurors " interrogating" me, one woman never spoke. Jurors Waldvogel and Webb displayed at least the appearance of listening to my answers. The others gave me the impression, they could care less about my responses.

With regard to the theft of \$29,000 of public funds, the Jury does not believe any theft occurred and marginalized the loss as only \$9,000. When I asked where they heard this information, I was met with the inappropriate, " we ask the questions " comment from one Grand Juror. At least two grand jurors made statement of fact comments that Auditor-Controller Clinton Shaad and DNSWMA treasurer Richard Taylor ultimately discovered \$20,000 of the missing monies, mitigating the losses as only \$9,000. I know the statements attributed to those individual to be incorrect yet they were nonetheless stated as factual by Dr. Roy and Grand Juror

Paula.

Judge Follett, you stated our government is of...for..and by the people. Sadly, I did not see the intent of your words taken with any degree of humility or understanding by foreman Dr. Roy and the other four Jurors present.

Regretfully, I am

Roger Gitlin
Supervisor District 1
County of Del Norte
981 H Street
Crescent City, CA 95531
(707) 464-0801 Office
(707) 951-6361 Cell
CC: private counsel

ADDENDUM B

Del Norte Sheriff's Department File Review

I have reviewed the file submitted by the Del Norte Sheriff's Department concerning money missing from the Solid Waste Management. This review determined that a complaint was filed with the Sheriff's Department and a deputy was assigned to investigate the circumstances surrounding the loss. The report submitted by this deputy identified several persons who may have possessed knowledge of the circumstances of the missing money. The report does not document any interviews, questions that should or may have been asked nor any responses to those questions. The report lists two people as suspects who may have committed a crime of theft. The report concludes that a successful prosecution was not likely and recommends that no judicial action be sought.

There was one supplemental report in the file identifying a reserve deputy who was tasked with making contact with several persons who had submitted checks for payment to the Solid Waste Management for services received that were not honored by the banks upon which they were drawn. The reserve deputy documents his attempts to make contact with these persons. This supplemental report does not document any useful information that would assist in the investigation of the missing money.

Within the Sheriff's Department file there was a copy of the "Scanlon Report." The file I was given was missing page number five (5) of this report. This report cites irregular accounting practices in place that were used for receiving payment for service from the Solid Waste collection. The report acknowledges that the persons in management positions who should have known of the accounting irregularities and have made the necessary corrections were no longer employees of the Solid Waste Management. Also, the report acknowledges that the accounting practice irregularities had been corrected. The report states that since the accounting practice corrections, all money received was in balance.

The Sheriff's Department file also contained documents that appear to be an attempt by Del Norte County accounting officers to determine how much money was missing from the Solid Waste Management and to determine how much of this money was due to persons submitting checks for payment that were not honored by the banks upon which they were drawn. The amount of missing money determined by the accounting officers was a little over \$27,000 dollars. The amount of money missing as a result of dishonored checks was a little more than \$23,000 dollars. No explanation for the remaining approximately \$4,000 dollars was offered.

In the absence of any documentation of any interviews, notes, questions that might have been asked, responses to those questions or other evidentiary items, it is unknown how the deputy assigned to investigate the circumstances of the missing money was able to identify two specific persons as having committed a theft of the money. It is possible that the accounting irregularities documented in the "Scanlon Report" may have been responsible for the lack of explanation of the final missing \$4,000 dollars. It is also possible that the missing \$4,000 dollars could be the result of theft. I do agree with the investigating deputy that a successful prosecution for theft is not likely.

Written by: Retired L.A. County Deputy Sheriff/Grand Jury Member

ADDENDUM C - Letters Submitted by Mary Wilson

As the owner of The Apple Peddler restaurant, my garbage and recycling rates went from \$900 to \$1900 a month when the new contract went in place in 2011. It took me about three months before I could make arrangements to cut back on my services to try and reduce my rates.

My neighbor, Mary Wilson, and myself were very upset about the penalties put on our small businesses. My neighbor, the Bayview Inn, and Mary, are now both hauling their own garbage. It is a shame that these companies have to go to the bother of self-hauling. It is a shame that Recology lost customers due to the exorbitant rates imposed on our city's businesses. It doesn't make good financial sense.

*Carl Wheeler
White City, OR*

During our last Solid Waste Authority meeting on August 13, 2014, the school board chairman, Don MacArthur, made a statement that the school district is "saving" \$8000.00 a month on trash disposal.




At the conclusion of his statement, I asked him if this was a savings on the rates since the new contract went in place. This he confirmed.

What should have been made clear is that the school board disposal rates had been increased \$87,000 annually for their standard services. And what had to be done to maintain the same monthly rate was to cut their services dramatically. So, yes, the school district "saved" \$8,000 a month by not paying the new rates by reducing their services.

Attached is a spreadsheet from Rodney Jahn, the financial authority for the school district, which outlines the 60% increase that the district was facing for disposal, had they maintained their same services.

Mary Wilson

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Clarke Moore
Crescent City

Attention - The Solid Waste Authority

I am the manager of Maple Cove Apartments in Crescent City.

This letter is being sent so that I can speak up about the Solid Waste Authority and what I feel is an unfair burden on all the businesses in our community.

Why is it that when governing agencies run out of money, they always want to raise OUR rates? Before this new transfer station, it was only \$60 a ton for garbage. Now it's over \$150 a ton! And to boot, the rates for businesses far surpass the rates for residents.

Why can't this agency tighten its belt? Why don't you give us businesses a break? Who says these guys are doing a good job? The guys who aren't paying...the ones who are making us businesses pay instead of them, that's who.

Tom Rube

8-20-14

August 19, 2014

To: The Solid Waste Authority

As the manager of The Lighthouse Inn of Crescent City, I would like to respond to the many comments I have seen in The Triplicate regarding the Solid Waste Authority and the idea that they are running things "just fine".

The rate increase imposed upon my business for trash disposal and recycling back in 2012 was excessive. Due to this extraordinary increase, I discontinued services and elected to self-haul my trash. Furthermore, it is my understanding that the rate increase was needed strictly in order to cover the overhead costs and expenses of the Solid Waste Authority.

I have no problem with Recology or Hambros. They both do fine jobs in their operations. In fact, they could probably run the whole thing, like other communities do. And our rates would be lower without all this government overhead! If the Solid Waste Authority were dissolved, services from Recology and Hambros would not be affected. They would still perform the same services as always. The question I have is, what exactly do we need the Solid Waste Authority staff for?

Sincerely,

Christine Daugy

2014-2015 Del Norte County Grand Jury Signature Page

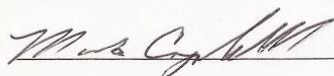
Tod A. Roy, Ph.D. - Foreperson



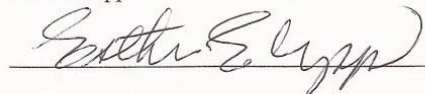
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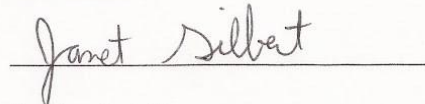
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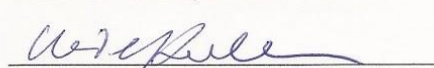
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Janet Gilbert



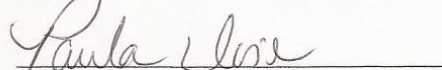
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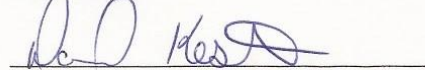
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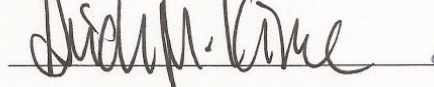
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David Kestler



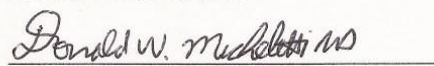
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Ronald Lynch



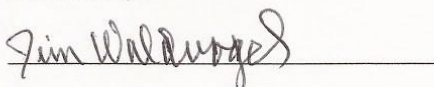
Donald Micheletti, M.D.



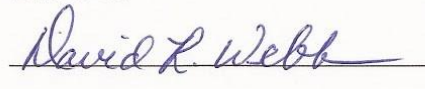
Victor Vinson



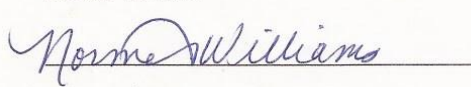
Jim Waldvogel



David Webb



Norma Williams



M'Laura Yates

